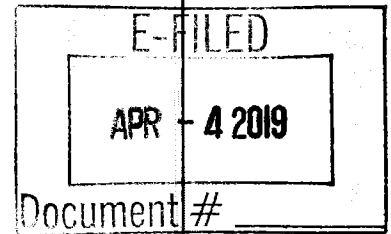


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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA



JAMES MURTAGH, M.D., *an individual*,) CASE NO.

) 2:15-cv-05204-BRO-FFM

Plaintiff,

) ~~[PROPOSED]~~

) CONSENT JUDGMENT

v.

DAVID PARDO, *an individual*,

and

JOHN DOES, 1 to 10,

Defendants.

) Hon. Philip S. Gutierrez

CONSENT JUDGMENT

Plaintiff Dr. James Murtagh, M.D. and Defendant David Pardo, in settlement of this matter, pursuant to the parties Settlement Agreement, consent and agree to the terms and conditions of this Final Consent Judgment and Permanent Injunction.

WHEREAS, Dr. James Murtagh, M.D. has obtained an internet domain name arbitration decision in *James Murtagh M.D. v. Clark Baker, Office of Medical and Scientific Justice*, Case No. D2014-0711 granting

1 plaintiff Dr. James Murtagh the exclusive rights to use the name
2 <jamesmurtaghmd.com> as a domain name on the internet.¹

3 WHEREAS, the internet domain name arbitration decision found that
4 there was the unauthorized commercial use of plaintiff's name, that the
5 registration of plaintiff's name was done in bad faith, that the unauthorized
6 use of plaintiff's name was done with the intent to confuse readership, and

7 WHEREAS, based on these unauthorized uses and commercial intent
8 there is no freedom of speech or right to use plaintiff's name as a domain
9 name,

10 WHEREAS, Dr. Murtagh has filed a Complaint requesting a
11 declaratory judgment to reclaim rights to use his name as a domain name
12 on the internet including use in metatags, hyperlinks and search
13 algorithms,

14 WHEREAS, a settlement agreement entered into between the parties
15 requires Mr. Pardo to stipulate and agree that Dr. Murtagh may seek and
16 obtain, without any objection or opposition by Mr. Pardo, a judgment
17 confirming Dr. Murtagh's ownership of the website domain name
18 <Jamesmurtaghmd.com>, and any other names of websites that Dr.
19 Murtagh may contend to make a unlawful use of his name and likeness,

20
21 WHEREAS, the parties to this action consent to the entry of this
22 Judgment and Order.

23
24 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS**
25 **FOLLOWS:**

26
27 ¹ Defendant David Pardo was not a party to this decision regarding rights to
28 the domain name.

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PARTIES

1. Plaintiff, DR. JAMES MURTAGH, MD, is an individual residing in Los Angeles, CA 90048.

2. Defendant, DAVID PARDO is an attorney and individual residing in New Mexico.

JURISDICTION AND VENUE

3. This Court has jurisdiction over plaintiff Dr. James Murtagh's claims pursuant to 15 U.S.C. §1121, 28 U.S.C. § 1331, 28 U.S.C. § 2201.

4. Venue is proper in this District pursuant to 28 U.S.C. §1391(b)(2) because a substantial part of the events giving rising to the claims occurred in this district.

FACTUAL BACKGROUND

5. Plaintiff Dr. James Murtagh, MD is an accomplished medical doctor and researcher and public health advocate certified in internal, pulmonary, sleep medicine and licensed in 12 states. Dr. Murtagh is a prolific academic medical author and also a member of the Author's Guild. Plaintiff provides medical services as an independent contractor ("locum tenens physician") who offers his medical services to hospitals and clinics under his own name, Dr. James Murtagh, M.D.

6. Defendant Pardo is a Massachusetts licensed attorney currently residing in New Mexico.

1 7. Defendant Pardo, in partnership with Mr. Clark Baker created
2 and operated a website using Plaintiff's name and likeness entitled
3 <jamesmurtaghmd.com> in November of 2012 that was never authorized
4 by plaintiff.

5 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

6 8. This Court confirms the internet domain name arbitration
7 decision and findings entered into in the case of *James Murtagh M.D. v.*
8 *Clark Baker, Office of Medical and Scientific Justice*, Case No. D2014-0711,
9 Administrative Panel Decision, World Intellectual Property Organization,
10 awarding and transferring the internet and website rights to the domain
11 name <jamesmurtaghmd.com> to Plaintiff.

12 9. Further, that Mr. Baker's use of Plaintiff's name was done with
13 commercial intent.

14 10. That the website <www.jamesmurtaghmd.com>, under
15 plaintiff's name, variations of plaintiff's name, use of plaintiff's name in
16 metatags, hyperlinks and internet algorithms and of plaintiff's likeness and
17 photo, have been used without plaintiff's consent that plaintiff claims in the
18 complaint was used to disparage plaintiff's reputation and harm plaintiff's
19 professional practice.

20 11. Plaintiff represents that Websites containing plaintiff's name, as
21 well as metalinks, hyperlinks, hidden codes, and internet search algorithms
22 improperly infringing upon plaintiff's name and rights include

- 23 a. www.baddocjjm.com
- 24 b. www.shakedowndoc.com
- 25 c. www.jamesmurtaghmdtruth.com
- 26 d. www.jamesmurtaghmdturth.com/omsj-the-questionable-
27 company-robert-gallo-keeps
- 28 e. www.jamcsmurtaghmdtruth.com/sleepcare2014

- f. www.jamesmurtaghmdtruth.com/gapprop
- g. www.jamesmurtaghmdtruth.com/emory-merits
- h. www.jamesmurtaghmdtruth.com/profile-muddled
- i. www.jamesmurtaghmdtruth.com/james-john-murtagh
- j. www.jamesmurtaghmdtruth.com/court-cases
- k. www.jamesmurtaghmdtruth.com/tag/lawsuits
- l. www.omsj.org/authors/corruption-dooms-dc-whistleblowers
- m. www.jamesmurtaghpsycho.com
- n. www.omsj.org/issues/civil-cases/murtagh-celeb
- o. www.propogandists.org/court-casesmurtagh/ohio-comm-plea-2012
- p. www.propogandists.org/court-casesmurtagh/ndga-fulton-dekalb-1999
- q. www.propogandists.org/court-casesmurtagh/ndga-va-2000
- r. www.propogandists.org/court-casesmurtagh/ndga-fulton-dekalb-2009
- s. www.propogandists.org/court-casesmurtagh/tax-court-2003
- t. www.propogandists.org/court-casesmurtagh/ndga-usa-emory-1999.

12. Defendant Pardo represents that Pardo is not the registrant or owner or involved in the management of any of the websites listed in paragraph 11.

13. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, regarding Plaintiff's rights to his name as a domain name, Defendant, and any agents of, and all other persons acting on Defendant's behalf or under

1 Defendant's control or in active concert or participation with Defendant, or
2 third parties are hereby permanently enjoined from:

- 3 a. Using Plaintiff's name, James J. Murtagh, M.D., or any
4 variation thereof or misspellings, in any manner in
5 connection with plaintiff's profession and medical
6 services including, but not limited to, the internet,
7 websites, website names, domain names, sponsored links,
8 hyperlinks, metatags, books, logos, advertisements,
9 promotional materials, medical services, mailings,
10 letterhead, business forms, facsimile legends, email
11 addresses, telephone listings;
- 12 b. Registering, purchasing, selling, owning or transferring
13 any domain name that contains Plaintiff's name and any
14 other term that is similar, whether alone or in any
15 combination with any other words, including, but not
16 limited to, any domain name that contains any variation
17 or misspellings of Plaintiff's name;
- 18 c. Doing any other act or thing, specifically the use of
19 Plaintiff's name on the internet, calculated or likely to
20 cause the public to be confused or deceived into believing
21 that Plaintiff's medical practice, or literary enterprises,
22 originate from, are affiliated with or are approved by
23 Plaintiff without Plaintiff's express authorization.

24 14. It is ordered that, pursuant to 15 U.S.C. § 8131(2), the domain
25 names infringing upon Plaintiff's rights to use of his name as a domain
26 name, including metatags, hyperlinks and internet search algorithms, shall
27 be immediately forfeited, cancelled and/or transferred to plaintiff upon
28 request of plaintiff to registrar.

1 15. Defendant Pardo represents that Pardo, himself, is no longer in
2 possession of any websites nor engaged in any activity that uses
3 unauthorized websites against Plaintiff.

4 16. Each person executing this Consent Judgment represents and
5 warrants that such person has the full right and authority to execute this
6 Consent Judgment and to enter into all the terms and conditions contained
7 herein.

8 17. Each Party executing this Consent Judgment represents and
9 warrants that the Party

- 10 a. Has had the opportunity to consider the terms and
11 provisions of this Consent Judgment;
12 b. Has had the opportunity to consult with an attorney of the
13 Party's own choosing prior to executing this Consent
14 Judgment;
15 c. Has carefully read this Consent Judgment voluntarily and
16 of the Party's own free will and assents to all the terms
17 and conditions contained herein.

18 CONSENTED TO:
19 DR. JAMES MURTAGH, M.D.

20 By: 

21 Date: 4-1-19

22 CONSENTED TO:
23 DAVID PARDO

24 By: 

25 Date: 4/1/2019

1 **IT IS SO ORDERED:**

2 4/4/19
3 **UNITED STATES DISTRICT JUDGE**

4 Dated: [Signature]
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